

13 MSC 424

JDL:TAD  
F.#2012R00370

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X  
IN THE MATTER OF AN APPLICATION :  
OF THE UNITED STATES OF AMERICA : APPLICATION  
FOR AN ORDER AUTHORIZING THE RELEASE :  
OF HISTORICAL CELL-SITE INFORMATION :  
- - - - - X

Justin D. Lerer, an Assistant United States Attorney for the Eastern District of New York, hereby applies to the Court for Orders pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days Sprint (the "service provider") disclose recorded information identifying the base station towers and sectors that received transmissions from 516-341-8114, a telephone issued by the service provider and subscribed to by Derrick Dunkley, 186-15 Hilburn Avenue, Saint Albans, New York 11412 (the "SUBJECT TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT TELEPHONE during any calls or text message transmissions, for the period from February 2, 2012 to February 22, 2012 (collectively, "the HISTORICAL CELL-SITE INFORMATION").

In support of this application I state the following:

1. I am an Assistant United States Attorney in the Office of Loretta E. Lynch, United States Attorney for the Eastern District of New York. As such, I am a duly-authorized representative of a "governmental entity" under 18 U.S.C.

§ 2703(c) and (d) and, as such, am authorized to apply for Orders authorizing the disclosure of the HISTORICAL CELL-SITE INFORMATION.

2. The Court is authorized to order the disclosure of the HISTORICAL CELL-SITE INFORMATION upon the government offering specific and articulable facts showing that there are reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation. 18 U.S.C. § 2703(d).

3. I have discussed this matter with a special agent Ayesha Winston of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (the "investigative agency"), who is involved in the investigation. Based upon my discussion with the agent, I believe that the information likely to be obtained is relevant to an ongoing criminal investigation as required by 18 U.S.C. § 2703(d). First, the investigative agency is conducting a criminal investigation into violations of federal criminal laws, including Hobbs Act robbery and unlawful use of a firearm, in violation of 18 U.S.C. §§ 1951(a) and 924(c)(1)(A)(ii), respectively. Second, it is believed that Derrick Dunkley has used the SUBJECT TELEPHONE in furtherance of the above offenses. Third, HISTORICAL CELL-SITE INFORMATION will further the investigation by corroborating the location of Derrick Dunkley and the SUBJECT TELEPHONE during the weeks

surrounding the robbery of a Pay-O-Matic check cashing store located at 247-12 South Conduit Avenue, Queens, New York (the "Pay-O-Matic"), which took place on February 14, 2012, including any surveillance of the Pay-O-Matic that Dunkley and his co-defendants, Edward Byam and Akeem Monsalvatge, may have performed prior to the robbery, Dunkley's presence in the vicinity of the Pay-O-Matic during the robbery, and the direction of Dunkley's and his co-defendants' flight from the Pay-O-Matic after the robbery. In addition, the HISTORICAL CELL-SITE INFORMATION may provide leads as to the location of the subjects' meetings prior to and after the Pay-O-Matic robbery, as well as where they may have initially stored the proceeds of the robbery.

4. Based upon discussions with Agent Winston, the government hereby sets forth the following specific and articulable facts showing that there are reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation:

5. On January 4, 2013, a Grand Jury returned a superseding indictment (the "Indictment") charging Derrick Dunkley, Edward Byam and Akeem Monsalvatge with two counts of Hobbs Act Robbery Conspiracy, in violation of 18 U.S.C. §§ 1951(a) and 3551 et seq., Hobbs Act Robbery, in violation of 18 U.S.C. §§ 1951(a), 2 and 3551 et seq., and Use of a Firearm, in violation of 18 U.S.C. §§ 924(c)(1)(A)(ii), 2 and 3551 et seq.

The charged robberies took place on February 24, 2010 and February 14, 2012.<sup>1</sup> During the February 14, 2012 Pay-O-Matic robbery, three men dressed as New York City Police Department ("NYPD") officers and wearing high-end special effects masks, approached a Pay-O-Matic employee as she was arriving to work. The three men showed the employee a photograph of her own house and escorted her into the store. Once inside, one of the men brandished a firearm, and the three men proceeded to rob the Pay-O-Matic, removing approximately \$200,000 from an unlocked safe. They then left the Pay-O-Matic, entered the SUV and drove away.

6. The three men left behind the photograph of the employee's home. Agents traced the photograph to a Walgreens store in Queens and obtained a receipt from Walgreens indicating that the photograph had been printed for "Byam, E." The receipt also contained a telephone number - 917-428-5213 - subscribed to by "Edward Byam" and another individual ("Byam Telephone-1"). Investigating agents subsequently received documents from Composite Effects, a company that manufactures high-end special effects masks, showing that "Edward Byam" had purchased three "Mac the Guy" Caucasian male masks that match the appearances of

---

<sup>1</sup> The government has been informed that the service provider retains HISTORICAL CELL-SITE INFORMATION for a period of two years; thus, the government is not requesting HISTORICAL CELL-SITE INFORMATION for the February 24, 2010 robbery. Moreover, subscriber and toll records obtained from the service provider concerning the SUBJECT TELEPHONE indicate that Derrick Dunkley has had the SUBJECT TELEPHONE since only February 2, 2012.

the robbers as captured on Pay-O-Matic surveillance cameras on the day of the robbery. The investigation revealed that the masks had been purchased on Ebay and were delivered to "Edward Byam c/o Erica" at an address in Jamaica, Queens (the "Jamaica address"), on November 29, 2011. Agents went to the Jamaica address and interviewed a woman named Erica Malloy, who stated that she was the girlfriend of Akeem Monsalvatge and that Monsalvatge's cellular telephone number was 347-417-2377 (the "Monsalvatge Telephone"). Telephone records obtained by the investigating agency showed that Akeem Monsalvatge was the subscriber for the Monsalvatge Telephone.

7. Agents obtained telephone records for the Monsalvatge Telephone, Byam Telephone-1 and the SUBJECT TELEPHONE, which revealed 89 calls between the Monsalvatge Telephone and Byam Telephone-1 during the two weeks prior to the robbery, approximately 22 of which occurred on February 14, 2012, the day of the Pay-O-Matic robbery. The telephone records also showed approximately 57 calls between the Monsalvatge Telephone and the SUBJECT TELEPHONE between February 2, 2012 and February 21, 2012, 16 of which took place on the day of the Pay-O-Matic robbery. Notably, four of these calls took place between 7:10 a.m. and 7:16 a.m., approximately one hour before the robbery took place. In addition, telephone records showed approximately 387 calls between the SUBJECT TELEPHONE and Byam Telephone-1

between February 2, 2012 and March 21, 2012, approximately 12 of which occurred on the day of the robbery. Six of these calls took place between 8:26 a.m. and 9:09 a.m. on February 14, 2012, shortly after the Pay-O-Matic robbery.

8. Agents also obtained records from Ebay and Paypal, which show that, on or about November 16, 2011, "Derrick Dunkley" purchased three NYPD jackets that match the jackets worn by the robbers during the February 14, 2012 Pay-O-Matic robbery. Documents received from Ebay and Paypal also show that, on or about November 17, 2011, the user "dderrick2011" purchased three "NYPD Detective Style Badge Cut-Out ID Card Neck Hangers," which match the badge holders worn by the robbers during the February 14, 2012 Pay-O-Matic robbery. The badge holders were shipped to "Derrick Davis" at 186-15 Hilburn Avenue, Saint Albans, New York 11412, the same address associated with the SUBJECT TELEPHONE, subscribed to by Derrick Dunkley and which was Dunkley's address at that time.

9. Based upon the above proffer, the government requests that the Court issue an Order that provides, pursuant to 18 U.S.C. § 2703(c)(1) and (d), a directive to the service provider to supply within seven days the HISTORICAL CELL-SITE INFORMATION for the period from February 2, 2012 to February 22, 2012.

10. No prior request for the relief set forth herein has been made except to the extent set forth above. The foregoing is affirmed under the penalties of perjury. See 28 U.S.C. § 1746.

Dated: Brooklyn, New York  
May 24, 2013



---

Justin D. Lerer  
Assistant United States Attorney  
(718) 254-6124

13 MISC 424

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X  
IN THE MATTER OF AN APPLICATION :  
OF THE UNITED STATES OF AMERICA : ORDER OF  
FOR AN ORDER AUTHORIZING THE RELEASE : AUTHORIZATION  
OF HISTORICAL CELL-SITE INFORMATION :  
- - - - - X

This matter having come before the Court pursuant to an application by Assistant United States Attorney Justin D. Lerer, an attorney for the Government as defined by Rule 1(b)(1) of the Federal Rules of Criminal Procedure and a duly-authorized representative of a "governmental entity" under 18 U.S.C. § 2703(c) and (d), requesting Orders pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days Sprint (the "service provider") disclose recorded information identifying the base station towers and sectors that received transmissions from 516-341-8114, a telephone issued by the service provider and subscribed to by Derrick Dunkley, 186-15 Hilburn Avenue, Saint Albans, New York 11412 (the "SUBJECT TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT TELEPHONE during any calls or text message transmissions, for the period from February 2, 2012 to February 22, 2012 (collectively, "the HISTORICAL CELL-SITE INFORMATION");

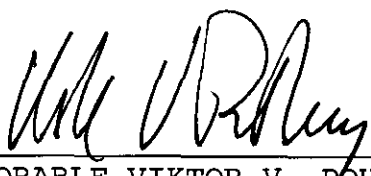
UPON REVIEW OF THE APPLICATION, THE COURT HEREBY  
FINDS THAT:



Pursuant to 18 U.S.C. § 2703(c)(1) and (d), the government has offered specific and articulable facts showing that there are reasonable grounds to believe that the HISTORICAL CELL-SITE INFORMATION is relevant and material to an ongoing criminal investigation into violations of federal criminal laws, including Hobbs Act Robbery Conspiracy, in violation of 18 U.S.C. §§ 1951(a) and 3551 et seq., Hobbs Act Robbery, in violation of 18 U.S.C. §§ 1951(a), 2 and 3551 et seq., and Use of a Firearm, 18 U.S.C. §§ 924(c)(1)(A)(ii), 2 and 3551 et seq., being conducted by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (the "investigative agency"); now therefore,

IT IS HEREBY ORDERED, pursuant to 18 U.S.C. § 2703(c)(1) and (d), that the service provider shall supply to the investigative agency within seven days the HISTORICAL CELL-SITE INFORMATION for the period from February 2, 2012 to February 22, 2012.

Dated: Brooklyn, New York  
May 24, 2013

  
HONORABLE VIKTOR V. BOHORELSKY  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**13 MCC 124**

- - - - - x  
IN THE MATTER OF AN APPLICATION :  
OF THE UNITED STATES OF AMERICA : ORDER TO  
FOR AN ORDER AUTHORIZING THE RELEASE : SERVICE PROVIDER  
OF HISTORICAL CELL-SITE INFORMATION :  
- - - - - x

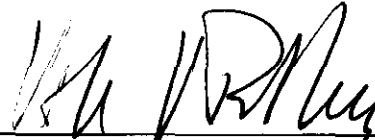
WHEREAS this Court has, upon the application of the United States of America, entered an Order pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days Sprint (the "service provider") disclose recorded information identifying the base station towers and sectors that received transmissions from 516-341-8114, a telephone issued by the service provider and subscribed to by Derrick Dunkley, 186-15 Hilburn Avenue, Saint Albans, New York 11412 (the "SUBJECT TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT TELEPHONE during any calls or text message transmissions, for the period from February 2, 2012 to February 22, 2012 (collectively, "the HISTORICAL CELL-SITE INFORMATION")

NOW THEREFORE, IT IS HEREBY:

ORDERED, pursuant to 18 U.S.C. § 2703(c)(1) and (d),

that the service provider shall supply within seven days the  
HISTORICAL CELL-SITE INFORMATION for the period from February 2,  
2012 to February 22, 2012.

Dated: Brooklyn, New York  
May 24, 2013

A handwritten signature in black ink, appearing to read 'V. Pohorelsky', is written over a horizontal line.

HONORABLE VIKTOR V. POHORELSKY  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK